



## DRAFT MINUTES

### LAFCO REGULAR MEETING

Wednesday, July 12, 2006, 9:00 a.m.

Planning Commission Hearing Room, Hall of Administration  
10 Civic Center Plaza, Santa Ana, CA

*(Any member of the public may request to speak on any agenda item at the time that item is being considered by the Commission.)*

#### 1. CALL TO ORDER

**Chair Robert Bouer** called the regular meeting of the Local Agency Formation Commission (LAFCO) to order at 9:04 a.m.

#### 2. PLEDGE OF ALLEGIANCE

**Commissioner Susan Wilson** led the pledge of allegiance in honor of the brave men and women serving in our nation's military.

#### 3. ROLL CALL

The following commissioners and alternates were present:

- **Commissioner Robert Bouer**
- **Commissioner Bill Campbell**
- **Commissioner Peter Herzog**
- **Commissioner Arlene Schafer**
- **Commissioner Susan Wilson**
- **Commissioner Tom Wilson**
- **Alternate Commissioner Patsy Marshall**
- **Alternate Commissioner Rhonda McCune**
- **Alternate Commissioner James Silva**
- **Alternate Commissioner Charley Wilson**

The following LAFCO staff members were present:

- Legal Counsel Clark Alsop
- Executive Officer Joyce Crosthwaite
- Assistant Executive Officer Bob Aldrich
- Project Manager Kim Koeppen
- Communications Analyst Danielle Ball
- Administrative Assistant Daphne Charles

**4. OATHS OF OFFICE**

Communications Analyst Ball administered the oaths of office for **Commissioners Charley Wilson, Susan Wilson, and John Withers.**

**5. APPROVAL OF MINUTES**

a.) May 10, 2006 – Regular Commission Meeting

**MOTION:** Approve minutes from May 10, 2006, as presented and without revision (Arlene Schafer)

**SECOND:** Tom Wilson

**FOR:** Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, Susan Wilson, Tom Wilson, John Withers

**AGAINST:** None

**ABSTAIN:** None

**MOTION PASSED**

**6. PUBLIC COMMENT**

**Chair Bouer** requested public comments on any non-agenda item.

Robert Hanley, a resident of the unincorporated community of West Santa Ana Heights (WSAH), distributed a handout to the Commission and spoke of his late friend Ed Hall's efforts over twenty years to get WSAH annexed to the City of Newport Beach. He said the community feels connected to Newport Beach because of the city's activism to lessen noise and other impacts from John Wayne Airport.

Receiving no further comments, **Chair Bouer** closed the public comment agenda item.

**7. CONSENT CALENDAR**

a.) Legislative Report

b.) Signal Landmark Reorganization to the Orange County Sanitation District (RO 05-60)

c.) Adoption of Update California Environmental Quality Act (CEQA) Guidelines

**MOTION:** Approve consent calendar (Peter Herzog)

**SECOND:** Susan Wilson

**FOR:** Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, Susan Wilson, Tom Wilson, John Withers

**AGAINST:       None**  
**ABSTAIN:       None**  
**MOTION PASSED**

As an aside, Executive Officer Crosthwaite mentioned that the City of Huntington Beach anticipates submitting an application for the Bolsa Chica annexation this fall or early winter.

**8.       CONTINUED PUBLIC HEARING**

*Items continued from the Commission's March 2006 meeting:*

- a.) Sphere of Influence Review for the City of Los Alamitos (SOI 05-31)
- b.) Sphere of Influence Review for the City of Seal Beach (SOI 05-32)
- c.) Sphere of Influence Review for the Rossmoor Community Services District (SOI 05-33)

Legal Counsel Clark Alsop explained that a conflict of interest would prevent him from overseeing the continued public hearing items, and he left the hearing room.

Executive Officer Crosthwaite introduced Michael Colantuono as LAFCO's special counsel. She said that Mr. Colantuono serves as special counsel to other LAFCOs and also served on the CLG21 Committee and is currently President of the League of Cities' City Attorney Department.

- 8a.       Sphere of Influence Review for the City of Los Alamitos (SOI 05-31)**
- 8b.       Sphere of Influence Review for the City of Seal Beach (SOI 05-32)**
- 8c.       Sphere of Influence Review for the Rossmoor Community Services District (SOI 05-33)**

Assistant Executive Officer Aldrich presented the staff report for the City of Los Alamitos' sphere of influence review. He explained that the Commission had originally considered the city's sphere in September 2005, after which the public hearing was continued to March 2006 and then again to July 2006. He indicated that staff's analysis and recommendations remained unchanged. He summarized staff recommendations, including the easterly expansion of the city's coterminous sphere of influence to include the unincorporated community of Rossmoor, which is surrounded by the city on three sides and shares the same water and sewer provider, as well as the city's major arterial streets.

**Commissioner Herzog** suggested hearing the staff reports for the City of Seal Beach and Rossmoor Community Services District's (CSD) spheres studies

concurrently, as all three agencies' sphere issues are interrelated. Mr. Aldrich concurred.

Mr. Aldrich presented the staff reports for the City of Seal Beach and Rossmoor CSD's spheres of influence, both of which were last updated in 1989. As with the City of Los Alamitos, Mr. Aldrich indicated that the public hearings for both the City Seal Beach and Rossmoor CSD's spheres had been twice continued from their original public hearing date in September 2005, firstly continued to March 2006 and then to July 2006. Mr. Aldrich stated that the Commission had previously given the city and CSD coterminous spheres of influence, adding that staff recommended the Commission reaffirm both agencies' spheres without any modifications. He said that both agencies were in concurrence with staff recommendations.

**Commissioner Withers** commented that his fellow commissioner, the absent **Commissioner Silva**, had hoped to continue the City of Los Alamitos' sphere review an additional six months. He opined that the area's sphere issues should be brought to a close as expeditiously as possible and made three concurrent motions: 1) continue the public hearing for the City of Los Alamitos for three months to the Commission's November 2006 meeting; 2) approve staff recommendations and reaffirm the City of Seal Beach's coterminous sphere of influence; and 3) approve staff recommendations and reaffirm the Rossmoor CSD's coterminous sphere of influence. **Commissioner Schafer** seconded his motions.

**Commissioner S. Wilson** asked legal counsel to clarify the motions in light of there being some confusion between the Rossmoor CSD and the unincorporated community of Rossmoor. Legal Counsel Colantuono complied, explaining the individual motions.

**Commissioner Herzog** requested that the public hearing items be considered individually. He expressed consternation at LAFCO granting an additional continuance for the City of Los Alamitos' sphere. He stated that the fate of Rossmoor had been the subject of much debate for more than a decade and added that incorporation of the unincorporated community had already been proven infeasible. Further, he reminded his fellow commissioners that Rossmoor representatives had twice assured LAFCO at the dais that they would not request additional delays at the conclusion of their own independent governance study. He made a counter motion, that the Commission continue its discussion of agenda item "8a" rather than put off the decision for another day. **Commissioner S. Wilson** seconded the motion.

Legal Counsel Colantuono recommended that the Commission drop all of the motions in order to first take public testimony. The Commission concurred.

**Commissioner Herzog** recommended that the Commission firstly consider items “8b” and “8c” (the City of Seal Beach and Rossmoor CSD’s spheres respectively), as those were considerably less contentious than the City of Los Alamitos’ sphere of influence.

**Chair Bouer** opened the public hearing on agenda item “8b,” the City of Seal Beach’s sphere of influence review.

**Commissioner McCune** requested and received clarification with regard to the public testimony from Legal Counsel Colantuono.

Lee Whittenberg, the City of Seal Beach’s Director of Development Services, presented a letter from the city’s mayor supporting the Commission’s reaffirmation of Seal Beach’s coterminous sphere of influence. He offered to answer questions and indicated that he would stay for the duration of the meeting in the event that he might be called upon to comment during the other public hearing items.

Receiving no additional comments, **Chair Bouer** closed the public hearing on agenda item “8b.”

**MOTION:** Adopt staff recommendations, including the reaffirmation of a coterminous sphere of influence for the City of Seal Beach (Peter Herzog)  
**SECOND:** Susan Wilson  
**FOR:** Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, Susan Wilson, Tom Wilson, John Withers  
**AGAINST:** None  
**ABSTAIN:** None  
**MOTION PASSED**

**Chair Bouer** opened the public hearing on agenda item “8c,” the Rossmoor CSD’s sphere of influence review. Receiving no comments from the audience, he then closed the public hearing.

**MOTION:** Adopt staff recommendations, including the reaffirmation of a coterminous sphere of influence for the Rossmoor CSD (John Withers)  
**SECOND:** Arlene Schafer  
**FOR:** Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, Susan Wilson, Tom Wilson, John Withers  
**AGAINST:** Susan Wilson  
**ABSTAIN:** None

## **MOTION PASSED**

**Chair Bouer** opened the public hearing on agenda item “8c,” the City of Los Alamitos’ sphere of influence review.

Russ Lightcap of the Rossmoor Planning Committee, with time ceded to him by three other members of the committee (Don Brown, Mike Sanders, and Mike Bullock), delivered a PowerPoint presentation to the Commission. He summarized findings from LAFCO’s municipal service review of the focus area and Rossmoor’s efforts to study its governance options and choose its own destiny. He cautioned that the Commission would be acting prematurely to put Rossmoor in any city’s sphere of influence at this time, as the planning committee needs more time for community outreach and to gauge public sentiment related to the four governance options analyzed in its independent study, which was completed by Burr Consulting. He said that the committee also wanted time to respond to LAFCO’s peer review of the private study. He submitted a petition signed by 727 Rossmoor residents requesting a six-month continuance and promised to present updates to the Commission at regularly scheduled intervals.

**Chair Bouer** expressed concern that community residents would return to LAFCO in six months to request further delay. Mr. Lightcap assured the Commission that, given six months to complete its community outreach, this would be Rossmoor’s last request for a continuance.

**Commissioner Campbell** said he understood that the community had originally requested a one-year delay. Mr. Lightcap indicated that the Rossmoor Planning Committee understood the Commission’s urgency and reduced its request to six months.

Executive Officer Crosthwaite cautioned that the Commission also has statutory deadlines for sphere reviews to which it must adhere.

Erwin Anisman, President of the Rossmoor CSD’s Board of Directors, read a letter from the CSD’s Board of Directors requesting that LAFCO continue its consideration of the City of Los Alamitos’ sphere of influence for six months.

Henry Taboada, General Manager of the Rossmoor CSD, spoke of the Rossmoor Planning Committee’s exhaustive community outreach efforts. He mentioned that the City of Seal Beach adopted a formal position that it has no interest in annexing Rossmoor and asked if the City of Los Alamitos had taken a formal position in regard to Rossmoor. He suggested the Los Alamitos’ formal position should be the focus of some exploration during the continuation period.

Receiving no further comments from the audience, Chair Bouer closed the public hearing.

Executive Officer Crosthwaite restated the issues for the Commission's consideration.

**Commissioner Schafer** asked if the City of Los Alamitos was available for comment. Assistant Executive Officer Aldrich indicated that staff had worked very closely with the city. He said that the city manager had planned to attend the public hearing but was not in the audience.

**Commissioner Withers** made a motion to continue the Commission's consideration of the City of Los Alamitos' sphere of influence for a period of six months. He said he appreciated his fellow commissioners' frustration and desire to have the matter decided but opined that, in the end, *how* the Commission resolves the issue will not be as important as the fact that the issue gets resolved. He insisted that this would be the last continuance that he would entertain. **Commissioner Schafer** seconded his motion.

**Commissioner Herzog** asked if **Commissioner Withers** would be amenable to amending his motion to indicate that this would be the absolute last continuance the Commission would grant. **Commissioner Withers** stated that was indeed the spirit of his motion; he did not feel compelled to amend it.

Legal Counsel Colantuono clarified the motion before the Commission.

**Commissioner Campbell** voiced his support of **Commissioner Withers'** motion. He said he had seen genuine progress and opined that it would be best for the Commission to allow the community to decide its fate rather than act hastily to force change. He added that six months was a reasonable period of time for the community to complete its discussions and that the deadline should be strictly adhered to.

**Commissioner S. Wilson** said that the ultimate fate of Rossmoor has been debated more than thirty years. With the County insistent that it wants out of municipal service provision, she said it was LAFCO's mandate to put Rossmoor within a city's sphere to ensure that the community would be considered in the city's plan for future services. She indicated that she would not support any further continuation.

**Commissioner McCune** echoed **Commissioner S. Wilson's** sentiments and expressed concern that Rossmoor leaders would continue to plead for delays. She called attention to the fact that Rossmoor's private study had already

deemed annexation to the City of Los Alamitos “fiscally infeasible” and indicated that, while she didn’t have a vote as an alternate, she would vote to have the issue resolved today.

**Commissioner Bouer** said that his fellow commissioner, Jim Silva, has been working with Rossmoor residents for many years to resolve these issues. He said he would support the six-month continuance but would not support any further delay beyond the six months.

**Commissioner Herzog** commented that he received the Rossmoor study early and reviewed it extensively before considering anything else on the Commission’s agenda. He showed the extensive notes he had made on his copy of the report and said he would reserve his questions, as it was clear to him that the request for continuance had enough support amongst his peers. He expressed surprise, however, that Rossmoor’s private report acknowledges that services are unsatisfactory, yet insists that staying independent is a viable option for the community.

**Commissioner T. Wilson** observed that Rossmoor’s options are narrowing considerably, with the City of Seal Beach adopting a formal position that it will not annex Rossmoor and the infeasibility of Rossmoor remaining unincorporated. He stated that he was prepared to support staff recommendations and congratulated staff on its diligence. He expressed concern that he and his fellow Supervisor, **Commissioner Silva**, would be out of office in six months, and it would be left to staff to educate two new commissioners regarding the issue’s long, contentious history.

**Commissioner Herzog** requested two separate meetings in January 2007: the annual strategic planning session and one meeting strictly related to the City of Los Alamitos’ sphere of influence.

Communications Analyst Ball called a roll call vote on the motion before the Commission.

<b>MOTION:</b>	<b>Continue consideration of the City of Los Alamitos’ sphere of influence to the January 2007 LAFCO meeting (John Withers)</b>
<b>SECOND:</b>	<b>Arlene Schafer</b>
<b>FOR:</b>	<b>Robert Bouer, Bill Campbell, Arlene Schafer, Tom Wilson, John Withers</b>
<b>AGAINST:</b>	<b>Peter Herzog, Susan Wilson</b>
<b>ABSTAIN:</b>	<b>None</b>
<b>MOTION PASSED</b>	

**Chair Bouer** called a brief recess at 10:06 a.m. and stipulated that Clark Alsop would return as LAFCO Legal Counsel.

**Chair Bouer** reconvened the meeting at 10:16 a.m. **Commissioner Withers** was not present.

## **9. PUBLIC HEARING**

- a.) Municipal Service Review for the City of Costa Mesa (MSR 06-26)
- b.) Municipal Service Review for the City of Newport Beach (MSR 06-28)
- c.) West Santa Ana Heights Reorganization to the City of Newport Beach (RO 06-25)
- d.) Banning Ranch Sphere of Influence Amendment to the City of Costa Mesa (SOI 06-20)

### **9a. Municipal Service Review for the City of Costa Mesa (MSR 06-26)**

Assistant Executive Officer Aldrich briefly summarized the staff report related to the City of Costa Mesa's municipal service review (MSR). He stated that staff did not identify any short- or long-term service-related issues for the City of Costa Mesa and recommended that the Commission receive and file the service review report and adopt the nine determinations related to the MSR.

**Chair Bouer** opened the public hearing. Receiving no comments from the audience, he then closed the public hearing.

**MOTION:** Adopt staff recommendations for the City of Costa Mesa MSR (Arlene Schafer)  
**SECOND:** Peter Herzog  
**FOR:** Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, Susan Wilson, Tom Wilson, Charley Wilson  
**AGAINST:** None  
**ABSTAIN:** None  
**MOTION PASSED**

**Commissioner Withers** reentered the hearing room.

### **9b. Municipal Service Review for the City of Newport Beach (MSR 06-28)**

Assistant Executive Officer Aldrich briefly summarized the staff report related to the City of Newport Beach's municipal service review (MSR). He stated that staff did not identify any short- or long-term service-related issues for the City of Newport Beach and recommended that the Commission receive

and file the service review report and adopt the nine-point statement of determinations related to the MSR.

**Chair Bouer** opened the public hearing. Receiving no comments from the audience, he then closed the public hearing.

**MOTION:**        **Adopt staff recommendations for the City of Newport Beach MSR (Tom Wilson)**  
**SECOND:**       **Peter Herzog**  
**FOR:**            **Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, Susan Wilson, Tom Wilson, John Withers**  
**AGAINST:**       **None**  
**ABSTAIN:**      **None**  
**MOTION PASSED**

- 9c.    West Santa Ana Heights Reorganization to the City of Newport Beach (RO 06-25)**
- 9d.    Banning Ranch Sphere of Influence Amendment to the City of Costa Mesa (SOI 06-20)**

Assistant Executive Officer Aldrich presented the staff report related to the West Santa Ana Heights (WSAH) reorganization request, submitted by the City of Newport Beach, and the Banning Ranch sphere amendment request, submitted by the City of Costa Mesa. He summarized the actions contained in each of the proposals, as well as the key decision: should the Commission respect long-standing sphere boundaries or encourage the annexation of unincorporated territory into a city?

Mr. Aldrich explained staff recommendations, which included approval of the sphere amendment and annexation of WSAH to the City of Newport Beach, contingent upon the City of Newport Beach detaching a small portion of the one-foot strip surrounding Banning Ranch so that the Cities of Costa Mesa and Newport Beach can engage in a professionally facilitated discussion about long-term service provision to the area.

Responding to a question posed by **Commissioner Campbell**, Mr. Aldrich stated that the City of Newport Beach requested an effective date of July 1, 2007, for the annexation of WSAH to the city, regardless of whether or not the Commission decided to follow staff recommendations.

**Commissioner Herzog** cautioned that the wording in the resolution only stipulated that the City of Newport Beach file a detachment application, not complete the detachment.

Mr. Aldrich clarified the requested map revisions at **Commissioner S. Wilson's** request.

**Chair Bouer** opened the concurrent public hearing for agenda items "9c" and "9d."

Newport Beach Mayor, Don Webb, and Assistant City Manager, Dave Kiff, delivered a PowerPoint presentation to the Commission summarizing the City of Newport Beach's proposal. Regarding the WSAH reorganization, they cited the residents' overwhelming support of the annexation, as well as related and mutually beneficial redevelopment projects in East Santa Ana Heights, as reasons for the Commission to approve the reorganization proposal. They objected to the Banning Ranch detachment.

**Commissioner Campbell** took exception to what he perceived as threats of legal action against LAFCO. Mr. Kiff indicated that the City of Newport Beach would willingly participate in facilitated discussions without the detachment and suggested that the city's participation in such discussions be added to the terms and conditions. He requested, however, that the detachment contingency be stricken from the resolution approving the WSAH reorganization.

City of Costa Mesa councilmember, Katrina Foley, and Mayor Pro Tem, Eric Bever, presented the City of Costa Mesa's arguments. Ms. Foley said that equitable annexation is very important to her city, adding that Costa Mesa has tried diligently to negotiate a just outcome for both cities. Mr. Bever said that Costa Mesa supports staff recommendations as the groundwork for the cities to come together and agree to a long-term solution to the area's long-standing annexation issues.

Costa Mesa City Manager, Allan Roeder, said his city has been the model of cooperation regarding island clean-up, going so far as to annex areas that have had a fiscally negative impact on the city's operations. He spoke to the need for a comprehensive resolution to all the area's island issues rather than piecemeal annexations. He said that Costa Mesa would insist on a firm boundary around WSAH to prevent Newport Beach from further encroaching upon territory within Costa Mesa's sphere, including the Santa Ana County Club and the island south of Mesa Drive.

Jeff Bailey, a resident of Newport Terrace, urged that the Commission deny the Banning Ranch sphere amendment. He indicated that his community has historically been a part of the City of Newport Beach and would like to stay that way.

George Bayse, of Newport Banning Ranch LLC, said that the City of Costa Mesa did not alert the owners of the 402-acre Banning Ranch that it intended to file for a sphere amendment. He indicated that, while the property is 90 percent unincorporated, the owners have been working with Newport Beach officials to have the area accounted for in the city's General Plan. He added that the owners are committed to working with both cities and said there weren't any objections to staff recommendations, including the series of facilitated discussions.

Santa Ana Heights resident, Ted Bosley, applauded the Costa Mesa City Council's willingness to support the WSAH annexation to Newport Beach, despite its staff's desire to leverage Banning Ranch to "hold the community hostage" and prevent the WSAH reorganization.

Newport Terrace resident, Stephen Brown, expressed fear that the City of Costa Mesa would seek to annex his community if granted its Banning Ranch sphere amendment request. He opined that eventual annexation of Banning Ranch to the City of Newport Beach was a more logical option and would keep Newport Terrace more contiguous with the rest of Newport Beach.

Fred Bockmiller, Vice President of Mesa Consolidated Water District's Board of Directors, said the district can extend services to Banning Ranch regardless of which city eventually annexes the territory. He expressed his Board's support of the City of Costa Mesa's position, saying that residential development of Banning Ranch by Newport Beach would have severe impacts on the area. He also cautioned the audience that the City of Costa Mesa wasn't even proposing annexation of Newport Terrace.

Jim Ferryman, a long-time resident of Costa Mesa and President of the Costa Mesa Sanitary District's Board of Directors, presented a letter from his Board. He explained that CMSD's Board voted 5-0 against supporting the WSAH reorganization, as it promotes illogical boundaries, which is against LAFCO's charge. He also commented that the major arterials that provide access to Banning Ranch run through Costa Mesa, making that city the more logical future service provider.

Donn Hall, a member of the City of Costa Mesa's Planning Commission and former mayor, echoed many of Mr. Ferryman's comments, stating that Costa Mesa provides the major arterials into Banning Ranch and shares all of its service providers. He also commented that police response to the area is faster through Costa Mesa than Newport Beach.

Santa Ana Heights resident, Isabel Hernandez, explained that airport noise issues spurred his political activism more than twenty years ago. He attributed

the airport curfew to the City of Newport Beach's efforts on behalf of the area's residents and said he has felt an affinity with the city ever since.

**Commissioner Campbell** exited the hearing room.

Another Santa Ana Heights resident, Robert Hanley, again spoke of his late friend Ed Hall's long-term efforts to see WSAH annexed to the City of Newport Beach. He referenced a Costa Mesa City Council meeting where City Manager Allan Roeder commented that the annexation of WSAH to the City of Costa Mesa would be fiscally detrimental and asked the Commission to support the WSAH reorganization to Newport Beach.

David Kinkade, a resident of Costa Mesa, spoke in support of the Banning Ranch sphere amendment proposed by the City of Costa Mesa and asked the Commission to be fair and equitable in its deliberations.

Harold Klassen, a member of the Santa Ana Heights Project Advisory Council, urged the Commission to approve the annexation of WSAH to Newport Beach.

**Commissioner Campbell** reentered the hearing room.

Island resident Cal McLaughlin commented that the residents living in the unincorporated island located south of Mesa Drive prefer annexation to the City of Newport Beach over Costa Mesa 15 to 1. He asked Costa Mesa officials to respect the residents' wishes and leave them alone.

John Marshall, a Newport Terrace real estate agent, stated that the community's residents wish to remain in the City of Newport Beach.

Earl Miller, a member of the Newport Condominium Association, commented that the City of Newport Beach must first agree to the detachment of Newport Terrace before the City of Costa Mesa could initiate an action to annex the community. He further added that an annexation to Costa Mesa would be subject to resident protest. He said that the community's residents want to remain in Newport Beach.

Newport Terrace resident, Carolyn Riel, said that she and her neighbors received a letter from Newport Beach officials warning that the City of Costa Mesa may have an interest in annexing their community. She urged the Commission to deny the Banning Ranch sphere amendment and remove the detachment contingency from the WSAH reorganization.

Terry Welsh, Chair of the Banning Ranch Park & Preserve Task Force, spoke of his organization's efforts to create a wildlife preserve out of Banning Ranch. He encouraged the public's participation and support in making the future Orange Coast River Park a reality.

Barbara Venezia, a member of the Santa Ana Heights Project Advisory Committee, encouraged the Commission to make Santa Ana Heights a whole by approving the annexation of WSAH without any encumbrances on the City of Newport Beach. She opined that the future of Banning Ranch was unrelated to the WSAH actions but merely being wielded by the City of Costa Mesa as political leverage.

Newport Terrace resident, Stacy Leff, indicated that she specifically bought her property because of its Newport Beach address and wanted to remain in that city.

Executive Officer Crosthwaite indicated that the City of Newport Beach had asked for additional time to respond to some of the issues raised during public testimony.

Homer Bludau, Newport Beach City Manager, clarified that there is roadway access to Banning Ranch through Newport Beach.

**Commissioner Herzog** asked for a copy of the letter the City of Newport Beach mailed to the residents of Newport Terrace.

Joel Kuperberg, of the law firm of Ratan & Tucker (representing Newport Beach), commented that there was no evidence presented in the LAFCO staff report indicating that the Banning Ranch and WSAH actions are connected or interrelated. He opined that the staff recommendation conditioning the WSAH reorganization on the detachment of territory in Banning Ranch was illegal and an abuse of authority.

**Commissioner Campbell** asked Legal Counsel Alsop to comment on Mr. Kuperberg's allegations. Mr. Alsop explained that the conditioned detachment was within LAFCO's authority and cited a similar policy decision employed by Ventura LAFCO as an example.

Costa Mesa City Manager, Allan Roeder, was also provided an opportunity to respond to public testimony. He refuted allegations that the City of Costa Mesa is seeking to annex the community of Newport Terrace, insisting that the city would never do so without conferring with the community's residents and could not do so without the consent of both the City of Newport Beach

and Newport Terrace residents. He also denied claims that the city is using an annexation strategy to leach redevelopment funds.

Referring to comments previously made in public testimony, **Commissioner Campbell** asked Mr. Roeder to clarify his council's actions related to WSAH. Mr. Roeder responded that the Costa Mesa City Council voted to support the City of Newport Beach's reorganization proposal for WSAH, despite staff's recommendations to the contrary.

Newport Terrace resident Karen Hanners warned of a "slippery slope" to Costa Mesa infringing upon her property rights. She said that she had initiated a petition in her community against Costa Mesa's actions and already had one-third of the homeowners' signatures.

**Chair Bouer** closed the public hearing.

**Commissioner Schafer** expressed concern about the audience members' misperceptions regarding Newport Terrace. In response, Assistant Executive Officer Aldrich demonstrated on a map that Newport Terrace would remain connected to the City of Newport Beach, even if the city detached the portion of Banning Ranch requested by staff. He further clarified that: 1) the City of Costa Mesa was not proposing to annex Newport Terrace; 2) it is not within LAFCO's legal authority to initiate a detachment from a city without that city's consent; 3) any annexation or detachment proposal related to Newport Terrace would be subject to protest by the community's residents, enabling them to defeat any proposal to which they are opposed.

**Commissioner Campbell** said he felt that the Newport Beach City Manager's letter to the Newport Terrace residents was somewhat inflammatory but added that he understands the city's desire to keep its residents informed.

**Commissioners S. Wilson** and **T. Wilson** both tried to quell audience members' concerns about Costa Mesa's interest in Newport Terrace, saying that neither the WSAH nor Banning Ranch proposals would have any affect on the community. The residents' protest rights were also explained in greater detail.

**Commissioner Campbell** referenced a letter written by former Executive Officer, Dana M. Smith, to the City of Newport Beach, asking the city to take a formal position on the annexation of WSAH and other unincorporated islands. He advised it was unfair, in his opinion, to impose the Banning Ranch detachment as a condition to the WSAH reorganization. He said he would support a condition mandating facilitated discussion but nothing more. He made a motion to adopt staff recommendations, *without* the contingency for

the Banning Ranch detachment, but mandating that the City of Newport Beach participate in facilitated discussions with Costa Mesa about the area's remaining unincorporated islands. His motion died for lack of a second.

Referencing successful boundary negotiations between the Cities of Laguna and San Juan Capistrano as a model, **Commissioner Withers** proposed that LAFCO remand the matter back to Newport Beach and Costa Mesa and facilitate the development of a "global" settlement resolving all of the areas boundary issues.

**Commissioner Herzog** agreed with **Commissioner Withers**, saying that the July 1, 2007, effective date requested by Newport Beach for the WSAH reorganization gives the parties plenty of time to engage in discussions. He added that he had spoken with representatives from both cities and was hopeful that the city's could come to a mutually agreeable resolution. He made a motion to continue the consideration of agenda items "9c" and "9d" until the Commission's February 2007 meeting and directed staff to assemble a LAFCO subcommittee to coordinate facilitated discussions between the two cities.

**Commissioner S. Wilson** seconded the motion. She expressed concern, however, that the parties would not achieve any forward progress if they were not equally committed to the process. She requested that staff collaboratively draft a meeting schedule with the affected agencies and that all parties adhere to it.

**Commissioner Marshall** acknowledged that she did not have a vote as an alternate but suggested that her fellow commissioners approve agenda items "9c" and "9d."

**Commissioner T. Wilson** objected to the notion that the residents of WSAH were being unjustly leveraged to elicit cooperation between Costa Mesa and Newport Beach. He also expressed concern that the loss of institutional memory following his and fellow **Commissioner Jim Silva's** pending departure could adversely affect the proposal's final outcome. He offered a counter motion to approve the WSAH reorganization and direct staff to assemble a LAFCO subcommittee to coordinate a series of facilitated discussions between the two cities, which should be completed by November 2006. Further, he asked that **Commissioner Silva** be invited to participate as a member of the subcommittee.

**Commissioner Schafer** seconded the counter motion and asked that she, too, be included as a member of the subcommittee. Further, she expressed

disappointment that the cities could not come to an agreement without LAFCO intervention.

**Commissioner Herzog** commented that delaying the Commission's decision regarding the WSAH reorganization would not adversely impact the community's residents, as the effective date of annexation would not be until July 2007. He offered to amend his motion, stipulating that agenda items "9c" and "9d" would only be continued to the Commission's November 2006 meeting, to ensure that **Commissioners T. Wilson** and **Silva's** input in the final decision.

At the request of **Commissioner McCune**, **Commissioner Herzog** again explained his reasons for wanting to continue the consideration of agenda items "9c" and "9d."

**Commissioner S. Wilson** said she felt that, given the contentious nature of negotiations to date, LAFCO's involvement in the facilitated discussion between the two cities would be integral to those discussions being successful. She further asked Executive Officer Crosthwaite to give the Commission monthly updates regarding the progress of the discussions.

Legal Counsel Alsop summarized the motions on the table. Communications Analyst Ball completed a roll call vote, beginning with the counter motion.

**MOTION:**            **Approve the WSAH reorganization; assemble LAFCO subcommittee to coordinate facilitated discussions between the Cities of Costa Mesa & Newport Beach, which should be completed by November 2006 (Tom Wilson)**

**SECOND:**          **Arlene Schafer**

**FOR:**               **Bill Campbell, Tom Wilson**

**AGAINST:**        **Robert Bouer, Peter Herzog, Arlene Schafer, Susan Wilson, John Withers**

**ABSTAIN:**        **None**

**MOTION FAILED**

**MOTION:**            **Continue consideration of the WSAH annexation and Banning Ranch SOI amendment (agenda items 9c & 9d) to the November 2006 meeting; assemble a LAFCO subcommittee to coordinate facilitated discussions between the Cities of Costa Mesa & Newport Beach in the interim (Peter Herzog)**

**SECOND:**          **Susan Wilson**

**FOR:** Robert Bouer, Peter Herzog, Arlene Schafer, Susan Wilson, John Withers  
**AGAINST:** Bill Campbell, Tom Wilson  
**ABSTAIN:** None  
**MOTION PASSED**

**Chair Bouer** called for a short recess at 12:25 p.m. He then reconvened the meeting at 12:29 p.m.

**10. COMMISSION DISCUSSION**

- a.) Strategic Plan Update
- b.) Rancho Mission Viejo Update

**10a. Strategic Plan Update**

Executive Officer Crosthwaite referred to the mid-year strategic plan update included with the July 2006 agenda packet and declared that the Commission's staff was on track for achieving the goals outlined for calendar year 2006.

**10b. Rancho Mission Viejo Update**

Executive Officer Crosthwaite announced that LAFCO staff would coordinate and host a CALAFCO University session entitled "A New Form of Government: Homeowners Associations & Public Agencies Working Together" on July 25, 2006, at John Wayne Airport's Eddie Martin Building. She commented on the timeliness of the session given LAFCO's work with stakeholders re the Rancho Mission Viejo governance plan earlier in the year and invited everyone to attend.

**11. COMMISSIONER COMMENTS**

**Chair Bouer** opened the floor for comments. Receiving no comments, he then closed commissioner comments.

**12. INFORMATIONAL ITEMS & ANNOUNCEMENTS**

- a.) CALAFCO Annual Conference 2006

**12a. CALAFCO Annual Conference 2006**

Referring to the conference information provided, Executive Officer Crosthwaite invited commissioners to contact Communications Analyst Ball to coordinate their registrations for the September 2006 event.

**13. CLOSED SESSION**

**Conference with Labor Negotiator Pursuant to Government Code Section 549574.6**

Agency Designated Representative: Executive Officer  
Unrepresented Employees: Commission Staff

**Chair Bouer** adjourned the Commission meeting for closed session at 12:32 p.m. He reconvened the meeting at 12:39 p.m. and announced the Commission's reportable actions.

**MOTION:** Approve the resolution adopting employee retirement rates for 2006-2007 (Bill Campbell)  
**SECOND:** Peter Herzog  
**FOR:** Robert Bouer, Bill Campbell, Peter Herzog, Arlene Schafer, Susan Wilson, Tom Wilson, John Withers  
**AGAINST:** None  
**ABSTAIN:** None  
**MOTION PASSED**

**14. ADJOURNMENT**

**Chair Bouer** adjourned the meeting at 12:40 p.m.

\* \* \* \* \*

JOYCE CROSTHWAITE  
Executive Officer  
Orange County Local Agency Formation Commission

By: Danielle M. Ball  
Danielle M. Ball  
Communications Analyst/Commission Clerk